

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

FILED
SCRANTON

FEB 25 2011

CARRINGTON KEYS,
Plaintiff

v.

COMMONWEALTH OF PA., et al.,
Defendants

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CIVIL NO. 3:10-CV-2487

Per M. S. F.
DEPUTY CLERK

(JUDGE NEALON)
(MAGISTRATE JUDGE BLEWITT)

MEMORANDUM and ORDER

On December 6, 2010, Plaintiff, Carrington Keys, an inmate currently confined at the State Correctional Institution (“SCI”) in Frackville, Pennsylvania filed the instant civil rights action pursuant to 42 U.S.C. § 1983. (Doc. 1). He also filed a motion for preliminary injunction and supporting brief. (Docs. 2-3). On December 30, 2010, Plaintiff filed a motion for leave to proceed in forma pauperis. (Doc. 7).

Pursuant to the screening requirements of the Prison Litigation Reform Act, Magistrate Judge Thomas M. Blewitt reviewed the complaint. See Pub. L. No. 104-134, 110 Stat. 1321 (April 26, 1996); 28 U.S.C. § 1915, § 1915A(a); Hudson v. Donate, 2007 U.S. Dist. LEXIS 29712, *2 (M.D. Pa. 2007) (Rambo, J.) (“When a prisoner files suit in forma pauperis, the court is required to dismiss a complaint on initial screening if the complaint fails to state a claim upon which relief may be granted. § 1915A(b)(1).”). On January 19, 2011, Magistrate Judge Blewitt issued a Report and Recommendation (“R&R”) recommending that all claims and Defendants be dismissed, and, further, that Plaintiff’s motion for a preliminary injunction be denied. (Doc. 10). No objections have been filed and, for the reasons set forth below, the R&R will be adopted.

Discussion

When neither party objects to a magistrate judge's report and recommendation, the district court is not statutorily required to review the report, under de novo or any other standard. 28 U.S.C. § 636(b)(1)(C); Thomas v. Arn, 474 U.S. 140, 152 (1985). Nevertheless, the Third Circuit has held that it is better practice to afford some level of review to dispositive legal issues raised by the report. Henderson v. Carlson, 812 F.2d 874, 878 (3d Cir. 1987), writ denied 484 U.S. 837 (1987); Garcia v. I.N.S., 733 F. Supp. 1554, 1555 (M.D. Pa. 1990) (Kosik, J.) (stating "the district court need only review the record for plain error or manifest injustice"). In the absence of objections, review may properly be limited to ascertaining whether there is clear error that not only affects the rights of the plaintiff, but also seriously affects the integrity, fairness, or public reputation of judicial proceedings. Cruz v. Chater, 990 F. Supp. 375, 377 (M.D. Pa. 1998) (Vanaskie, J.). The district court may accept, reject, or modify, in whole or in part, the findings and recommendations contained in the report. 28 U.S.C. § 636(b)(1)(C); Local Rule 72.3.

After review of the instant record, it is concluded that Magistrate Judge Blewitt conducted a thorough examination of the Complaint and of the request for injunctive relief. (Doc. 10). The Report includes the controlling legal standards and provides a well-reasoned explanation why the claims and Defendants should be dismissed. (Id.). In the absence of objections and finding no error in the R&R, it will be adopted.

Plaintiff's motion to proceed in forma pauperis will be granted for the sole purpose of filing this action, but the Complaint and motion for a preliminary injunction will be dismissed. Further, although pro se complaints are to be liberally construed, Magistrate Judge Blewitt's determination that an amendment in the instant action would be futile and should not be allowed

will be adopted. See Haines v. Kerner, 404 U.S. 519, 520 (1972); (Doc. 10, p. 48 n.27). Finally, this Court will not exercise pendent jurisdiction of Plaintiff's state law claims and the action will be closed.

Date: February 25, 2011


United States District Judge

IN THE UNITED STATES DISTRICT COURT
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CARRINGTON KEYS,
Plaintiff

v.

COMMONWEALTH OF PA., et al.,
Defendants

CIVIL NO. 3:10-CV-2487

(JUDGE NEALON)
(MAGISTRATE JUDGE BLEWITT)

ORDER

NOW, THIS 25th DAY OF FEBRUARY, 2011, IT IS HEREBY ORDERED THAT:

1. The Report and Recommendation (Doc. 10) is **ADOPTED**;
2. Plaintiff's Complaint (Doc. 1) is **DISMISSED**;
3. The motion for preliminary injunction (Doc. 2) is **DENIED**;
4. The motion for leave to proceed in forma pauperis (Doc. 7) will be **GRANTED** for the sole purpose of filing this action;
5. The Clerk of Courts is directed to **CLOSE** this case; and
6. Any appeal will be deemed frivolous, lacking merit, and not taken in good faith.


United States District Judge